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Jasper W. Dockrey  
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO IL 60610

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**OFFICE OF PETITIONS**

In re Patent No. 7,164,560 :  
Saito et al. : DECISION ON REQUEST  
Issue Date: January 16, 2007 : FOR  
Application No. 10/624,931 : RECONSIDERATION OF  
Filed: July 22, 2003 : PATENT TERM ADJUSTMENT  
Attorney Docket No. 9281/4596 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed February 6, 2007. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from five hundred forty-five (545) days to seven hundred twenty-three (723) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On January 16, 2007, the above-identified application matured into U.S. Patent No. 7,164,560, with a revised Patent Term Adjustment of 545 days. The instant request for reconsideration filed February 6, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment of 178 days should have been entered for the Office taking in excess of three years to issue the patent.

With respect to 37 CFR 1.703(b), it is noted that the patent issued three years and 178 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that the period of 178 days overlapped. Thus, the application accrued no additional days pursuant to 37 CFR 1.703(b).

In view thereof, the patent term adjustment of 545 days indicated in the patent is correct.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions